



<NOTICE>

<PREAMB>

**DEPARTMENT OF AGRICULTURE**

**Rural Utilities Service**

**[Docket: USDA-2017-0002-0001]**

**ReConnect Pilot Program**

**AGENCY:** Rural Utilities Service, Department of Agriculture.

**ACTION:** Funding Opportunity Announcement (FOA) and solicitation of applications for Second Round of the Reconnect Program.

**SUMMARY:** The Rural Utilities Service (RUS), a Rural Development agency of the United States Department of Agriculture (USDA), hereinafter referred to as the Agency, announces its general policy and application procedures for its second round of funding under the broadband pilot program. This pilot program was established pursuant to the Consolidated Appropriations Act, 2018. The Agency is announcing the application window for this second round of funding and requesting comments on the program.

**DATES:** *Applications:* Beginning on January 31, 2020, applications can be submitted through the RUS on-line application portal until 6:00 PM Eastern on March 16, 2020.

*Comments:* Comments due by March 16, 2020.

**ADDRESSES:** *Application Submission:* Apply at <https://reconnect.usda.gov>. Electronic applications will allow for the expeditious review of an Applicant's proposal. As a result, all Applicants must file their application electronically at the above website.

*Comments:* For proper delivery, all feedback or comments should specify “Identifying Regulatory Reform Initiatives.”

Electronic Submission. You may submit comments electronically through the Federal eRulemaking Portal: *<http://www.regulations.gov> using Docket ID: USDA-2017-0002-0001.*

USDA strongly encourages commenters to submit comments electronically. Electronic submission of comments allows you maximum time to prepare and submit a comment and ensures timely receipt by USDA. Follow the instructions provided on that site to submit comments electronically.

Mail, Hand delivery, or Courier. Paper, disk, or CD-ROM submissions should be submitted to [regulations@obpa.usda.gov](mailto:regulations@obpa.usda.gov), Office of Budget and Program Analysis, USDA, Jamie L. Whitten Building, Room 101-A, 1400 Independence Ave. SW, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** For general inquiries, contact Chad Parker, Assistant Administrator Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email: *[chad.parker@usda.gov](mailto:chad.parker@usda.gov)*, telephone (202) 720–9554. You may obtain additional information regarding applications at *<https://reconnect.usda.gov>*.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

On March 23, 2018, Congress passed the Consolidated Appropriations Act, 2018 (the Act), which established a new broadband loan and grant pilot program, now called the Rural eConnectivity Pilot Program (ReConnect Program). The Act originally appropriated budget authority of \$600 million to be used on an expedited basis. For fiscal year (FY) 2019, Congress funded an additional \$550 million for the pilot. The ReConnect Program provides loans, grants, and loan/grant combinations to facilitate broadband deployment in rural areas. In facilitating the

expansion of broadband services and infrastructure, the pilot will fuel long-term rural economic development and opportunities in rural America. One of those opportunities is precision agriculture. The use of this technology requires a robust broadband connection. The awards made under this program will bring high speed broadband to the farms which will allow them to increase productivity.

### **Applications**

Please note that the application process is designed so that an applicant must demonstrate financial and technical feasibility of the project and the entire operation of the applicant. Applicants that do not demonstrate financial or technical feasibility will not be considered for an award.

Apply at <https://reconnect.usda.gov>. from January 31, 2020, until 6:00 PM Eastern on March 16, 2020. Electronic applications will allow for the expeditious review of an Applicant's proposal. As a result, all Applicants must file their application electronically at the above website.

### **Comments**

For the first round of funding, the United States Department of Agriculture (USDA) determined that it was in the public interest to move forward with developing procedures for the ReConnect Program within a Funding Opportunity Announcement (FOA), as is common with a pilot, instead of rulemaking. Such a method would also meet the statutory mandate of expediting program delivery. Notwithstanding the lack of rulemaking, however, before USDA finalized and published the FOA, it requested informal comments from the public on a wide range of issues to be considered by the agency in the ReConnect Program. *See* Notice of Inquiry and Request for

Comments, 83 FR 35609 (July 27, 2018). Once the FOA was published, the application windows were open between April 23, 2019 and July 12, 2019.

Thereafter, the Agency received input from applicants that participated in the first funding round on issues which included, but were not limited to: (1) the availability of data; (2) frequency of collection; (3) clarity of instructions; (4) data elements to be recorded, disclosed, or reported; (5) access to forms; and (6) accessibility for troubleshooting. Based on that input, the Agency made further changes to the program, which are discussed below.

Additionally, with this FOA, the agency is now requesting that the public again provide feedback on the program, as was done with the July 27<sup>th</sup> Notice of Inquiry. Specifically, the public is requested to submit comments that would inform any future rounds of ReConnect funding, if any, or comments on issues that should be addressed in any future broadband program. Additionally, and consistent with the Department's Regulatory Reform Initiatives, the public is requested to submit comments related to program implementation, suggestions on decreasing the public burden, etc., through the USDA request for information published on July 17, 2017 (82 FR 32649). See ADDRESSES for information about how to comment.

**Authority:** This solicitation is issued pursuant to the Consolidated Appropriations Act, 2018, Pub. L. 115–141, the Consolidated Appropriations Act, 2019, Pub. L. 116-6, and the Rural Electrification Act of 1936, 7 U.S.C. 901 *et seq.*

## **Overview**

*Federal Agency:* Rural Utilities Service, USDA.

*Funding Opportunity Title:* Rural eConnectivity Pilot Program (ReConnect Program).

*Announcement Type:* Funding Opportunity Announcement (FOA) and solicitation of applications.

*Catalog of Federal Domestic Assistance (CFDA) Number:* Rural eConnectivity Pilot Program (ReConnect Program) - 10.752.

## **Items in Supplementary Information**

- I. Overview
- II. Summary of Changes
- III. Definitions
- IV. Substantially Underserved Trust Areas
- V. Funding Opportunity Description
- VI. Eligibility Information
- VII. Application and Submission Information
- VIII. Application Evaluation Criteria
- IX. Notice of Proposed Funded Service Areas
- X. Evaluation and Processing Procedures
- XI. Award Administration Information
- XII. Other Information

## **I. Overview**

On March 23, 2018, Congress passed the Consolidated Appropriations Act, 2018 (the FY2018 Appropriations), which established a broadband loan and grant pilot program, the Rural eConnectivity Pilot Program (hereinafter the ReConnect Program). One of the essential goals of the ReConnect Program is to expand broadband service to rural areas without sufficient access to broadband, defined as 10 megabits per second (Mbps) downstream and 1Mbps upstream. For this purpose, Congress provided RUS with \$600 million and expanded its existing authority to

make loans and grants. Additionally, the FY2018 Appropriations specifically authorized technical assistance to assist the Agency in expanding needed service to the most rural communities where 90 percent of the households are without sufficient access to broadband service. Once again, on January 3, 2019, Congress appropriated (the FY2019 Appropriations) an additional \$550 million to continue the ReConnect Program. To promote broadband in rural America, RUS encourages state and local jurisdictions to waive any fees associated with granting rights-of-ways and to assist applicants and awardees with satisfying any environmental requirements such as approval from the State Historical Preservation Office.

## **II. Summary of Changes**

The first funding round of the Reconnect Program is considered a success with the Agency receiving one hundred and forty-six (146) submitted applications for a total of over \$1.4 billion. After a careful review of the lessons learned during the first round of funding, several changes are being instituted for second funding round. Those changes include, but are not limited to, the following:

1. The application window for the three categories of funding will be from January 31, 2020 through March 16, 2020.
2. Definitions have been added for healthcare and educational facilities and the name for critical community facilities has been changed to essential community facilities.
3. For 100 percent grants, 90 percent of the proposed funded service area cannot have sufficient access to broadband, as opposed to 100 percent under round one.

4. The requirement for two years of unqualified, comparative, audited financial statements has been changed to unqualified, comparative, audited financial statements for the previous year from the date the application has been submitted.

5. The requirement that applicants must submit certifications from the appropriate state or tribal broadband office has been changed to a voluntary request.

6. Pre-application expenses that were incurred for round one, but benefit an application for round two, may be funded up to the 5 percent of the total award in round 2.

7. Under certain conditions a subsidiary can use the unqualified, comparative, audited statements to meet certain eligibility requirements.

8. The scoring criteria for farms has been changed. Applicants will receive 1 point for every 10 farms served up to a maximum of 20 points. Farms will be counted using 2017 Census of Agriculture data.

9. Tribal leaders can submit documentation supporting scoring points for the number of healthcare, educational and essential community facilities.

10. The time period incumbent service providers will be able to challenge if sufficient service is present in an applicant's proposed funded service area is being increased from 30 days to 45 days.

### **III. Definitions**

The terms and conditions provided in this FOA are applicable to and for purposes of this FOA only. Unless otherwise provided in the award documents, all financial terms not defined herein shall have the meaning as defined by Generally Accepted Accounting Principles.

*Administrator* means the RUS Administrator, or the Administrator's designee.

*Applicant* means an entity requesting funding under this FOA.

*Application* means the Applicant's request for federal funding, which may be approved in whole or part by RUS.

*Award documents* mean, as applicable, all associated grant agreements, loan agreements, or loan/grant agreements.

*Award* means a grant, loan, or loan/grant combination made under this FOA.

*Awardee* means a grantee, borrower, or borrower/grantee that has applied and been awarded federal assistance under this FOA.

*Broadband loan* means, for purposes of this FOA, a loan that has been approved or is currently under review by RUS after the beginning of Fiscal Year 2000 in the Telecommunications Infrastructure Program, Farm Bill Broadband Program, Broadband Initiatives Program or the ReConnect Program. Loans that were approved and then subsequently fully de-obligated are not included in this definition.

*Broadband service* means any technology as having the capacity to transmit data to enable a subscriber to the service to originate and receive high quality voice, data, graphics and video.

*Business* means a commercial or mercantile activity engaged in as a means of livelihood. For purposes of this FOA, farms will not be counted as businesses for scoring purposes.

*CALEA* means the Communications Assistance for Law Enforcement Act, 47 U.S.C. 1001 *et seq.*

*Composite economic life* means the weighted (by dollar amount of each class of facility) average economic life of all classes of facilities necessary to complete construction of the broadband facilities in the proposed funded service area.

*Current ratio* means the current assets divided by the current liabilities.

*Debt service coverage ratio* (DSCR) means (Total Net Income or Margins +Interest Expense Allowance for Funds Used during Construction +Depreciation + Amortization)/(Interest on Funded Debt + Other Interest +Principal Payment on Debt and Capital Leases).

*Economic life* means the estimated useful service life of an asset as determined by RUS.

*Educational facilities* mean any public or private educational institution that offers a program of college, professional, preparatory, high school, middle school, junior high school, elementary, or kindergarten instruction, or any combination of those facilities. Daycare centers, museums, and libraries are also included.

*Eligible service area* means any proposed funded service area where 90 percent of the households to be served do not have sufficient access to broadband. For eligibility purposes, if an applicant is applying for multiple proposed funded service areas, each service area will be evaluated on a stand-alone basis.

*Essential community facilities* means public facilities that provide community services essential for supporting the safety, health, and well-being of residents, including, but not limited to, emergency response and other public safety activities.

*Equity* means total assets minus total liabilities as reflected on the Applicant's balance sheet.

*Farm* means any place from which \$1,000 or more of agricultural products were sold or would normally be sold during the year.

*Forecast period* means the five-year period of projections in an application, which shall be used by RUS to determine financial and technical feasibility of the application.

*GAAP* means accounting principles generally accepted in the United States of America.

*Grant* means any federal assistance in the form of a grant made under this FOA.

*Grant agreement* means the grant contract and security agreement between RUS and the Awardee securing the Grant awarded under this FOA, including any amendments thereto, available for review at <https://reconnect.usda.gov>.

*Healthcare facilities* means any facility where healthcare is provided, including but not limited to, clinics, hospitals, nursing homes, pharmacies, and urgent care facilities.

*Loan* means any federal assistance in the form of a loan made under this FOA.

*Loan agreement* means the loan contract and security agreement between RUS and the Awardee securing the Loan, including all amendments thereto, available for review at <https://reconnect.usda.gov>.

*Loan/grant* means any federal assistance in the form of a loan/grant combination made under this FOA.

*Loan/grant agreement* means the loan/grant contract and security agreement between RUS and the Awardee securing the Loan/grant, including all amendments thereto available at <https://reconnect.usda.gov>.

*Non-funded service area* means any area in which the applicant offers broadband service or intends to offer broadband service during the forecast period but is not a part of its proposed funded service area.

*Pre-application expenses* means any reasonable expenses, as determined by RUS, incurred after the release of this FOA to prepare an Application or to respond to RUS inquiries about the Application.

*Premises* means households, farms and businesses.

*Project* means all of the work to be performed to bring broadband service to all premises in the proposed funded service area under the Application, including construction, the purchase and

installation of equipment, and professional services including engineering and accountant/consultant fees, whether funded by federal assistance, matching, or other funds.

*Proposed funded service area (PFSA)* means the area (whether all or part of an existing or new service area) where the applicant is requesting funds to provide broadband service. Multiple service areas will be treated as separate standalone service areas for the purpose of determining how much of the proposed funded service area does not have sufficient access to broadband. Each service area must meet the minimum requirements for the appropriate funding category to be an eligible area.

*RE Act* means the “Rural Electrification Act of 1936,” as amended (7 U.S.C. 901 *et seq.*).

*Rural area* means any area which is not located within: (1) A city, town, or incorporated area that has a population of greater than 20,000 inhabitants; or (2) an urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants.

*RUS Accounting Requirements* shall mean compliance with U.S. GAAP, acceptable to RUS, the system of accounting prescribed by RUS Bulletin 1770B–1, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, found at 2 CFR part 200. For all Awardees the term “grant recipient” in 2 CFR 200 shall also be read to encompass “loan recipient” and “loan/grant recipient”, such that 2 CFR 200 shall be applicable to all Awardees under this FOA.

*Sufficient access to broadband* means any rural area in which household have fixed, terrestrial broadband service delivering at least 10 Mbps downstream and 1 Mbps upstream. Mobile and satellite services will not be considered in making the determination of sufficient access to broadband.

*Tangible equity* means a measure of a company's capital, which is used by financial institutions to evaluate potential losses by eliminating intangible assets, goodwill and preferred stock from total equity.

*Tangible equity to total assets* means tangible equity divided by total assets.

*Times interest earned ratio* (TIER) means (Total Net Income or Margins + Total Interest - Expense Allowance for Funds Used during Construction) divided by (Total Interest - Expense Allowance for Funds Used during Construction).

#### **IV. Substantially Underserved Trust Areas**

##### *A. Community Designation of "Substantially Underserved Trust Area"*

If the Administrator determines that a community within "trust land" (as defined in 38 U.S.C. 3765) has a high need for the benefits of the ReConnect Program, the Administrator may designate the community as a "substantially underserved trust area" (as defined in section 306F of the RE Act).

##### *B. Consideration as a "Substantially Underserved Trust Area"*

To receive consideration as a substantially underserved trust area, the applicant must submit to the Agency a completed application that includes all of the information requested in 7 CFR part 1700, subpart D. In addition, the application must identify the discretionary authorities within subpart D that it seeks to have applied to its application. Note, however, that given the prohibition on funding operating expenses in the ReConnect Program, requests for waiver of the equity requirements cannot be considered. In addition, due to the statutory requirements that established the ReConnect Program, waiver of the nonduplication requirements also cannot be considered.

## **V. Funding Opportunity Descriptions**

### *A. Funding Categories*

#### **1. General**

For the purposes of this FOA, 90 percent of the proposed funded service area must not have sufficient access to broadband. Applicants must propose to build a network that is capable of providing service to every premise located in the proposed funded service area at the time the application is submitted at a speed of 25 Mbps downstream and 3 Mbps upstream. The Agency reserves the right to make funding offers or seek consultations to resolve partially overlapping applications. RUS may contact the applicant for additional information during the review process. If additional information is requested, the applicant will have up to 30 calendar days to submit the information. If such information is not timely submitted, RUS may reject the application. Once all funds for a category have been expended for the ReConnect program, all remaining applications will be returned.

#### **2. 100 Percent Loan**

Applications will be processed and awarded on a rolling basis. In the event two loan applications are received for the same proposed funded service area the application submitted first will be considered first. The interest rate for a 100 percent loan will be set at a fixed 2 percent. Tangible equity to total assets must be at least 20 percent at the end of the calendar year starting in the third year of the forecast period through the remainder of the forecast period.

#### **3. 50 Percent Loan/50 Percent Grant Combination**

The interest rate for the 50 percent loan component will be set at the Treasury rate for the remaining amortization period at the time of each advance of funds. Applicants may propose

substituting cash for the loan component at the time of application and funds must be deposited into the construction fund account at the closing of the award. All eligible applications will be scored and, subject to Section V(C)(5)(b)(i) (overlapping applications), applications with the highest score will receive an award offer until all funds are expended for this category.

#### 4. 100 Percent Grant

Applicants must provide a matching contribution equal to 25 percent of the cost of the overall project and must clearly identify the source of the funds even if it is to be provided from the applicant's operating accounts. All matching funds must be deposited into the construction fund account at the closing of the award. If the matching funds are provided by a third party, a serious commitment from the third party must be submitted indicating that the funds will be available at the closing of the award if approved. The matching contribution can only be used for eligible purposes. All eligible applications will be scored, and subject to Section V(C)(5)(b)(i) (overlapping applications) applications with the highest score will receive an award offer until all funds are expended for this category.

#### *B. Available Funds*

##### 1. General

Approximately \$512,000,000 in funding has been set aside for funding opportunities under this FOA.

##### 2. Funding Limits

Award amounts under this FOA will be limited as follows:

a. 100 Percent Loan. Up to \$200,000,000 is available for loans. The maximum amount that can be requested in an application is \$50,000,000.

b. 50 Percent Loan—50 Percent Grant. Up to \$200,000,000 is available for loan/grant combinations. The maximum amount that can be requested in an application is \$25,000,000 for the loan and \$25,000,000 for the grant. Loan and grant amounts will always be equal.

c. 100 Percent Grant. Up to \$200,000,000 is available for grants. The maximum amount that can be requested in an application is \$25,000,000.

d. Reserve. Additional budget authority is available for a reserve, which may be used for loans or grants under this FOA or may be included in additional FOAs. The agency reserves the right to increase funding utilizing the application queue under this FOA should additional appropriations become available for the same purposes.

### 3. Repooling

RUS retains the discretion to divert funds from one funding category to another.

### 4. Award Period

Awards can be made until all funds have been expended in any given funding category. While the completion time will vary depending on the complexity of the project, award recipients must complete their projects within 5 years from the date funds are first made available.

### 5. Type of Funding Instrument

The funding instruments will be grants, loans, and loan/grant combinations.

## **VI. Eligibility Information**

### *A. General*

Applicants must satisfy the following eligibility requirements to qualify for funding.

### *B. Eligible Entities*

The following entities are eligible to apply for assistance:

1. States, local governments, or any agency, subdivision, instrumentality, or political subdivision thereof;
2. A territory or possession of the United States;
3. An Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));
4. Non-profit entities;
5. For-profit corporations;
6. Limited liability companies; and
7. Cooperative or mutual organizations.

Please note that individuals and legal partnerships are not eligible to apply. In addition, co-applicants are not eligible. If two entities would like to partner with each other in delivering broadband to areas without sufficient access, then one entity must take the lead on submitting an application. Inter-company agreements can be used to account for revenues and expenses on the applicant's financial projections.

### *C. Application Eligibility Factors*

The following requirements must be met by all applications to be eligible for an award. Applications failing to comply with these requirements will be rejected.

#### **1. Audited Financial Statement**

Applicants must submit an unqualified, comparative, audited financial statement for the previous year from the date the application is submitted. If an application is submitted in the first quarter of the calendar year and the most recent yearend audit has not been completed, the applicant can submit the two previous unqualified audits that have been completed. If qualified

audits containing a disclaimer or adverse opinion are submitted, the application will not be considered. An applicant can use the consolidated financials of the parent as long as the parent fully guarantees the loan, or in the case of a grant, guarantees that construction will be completed as approved in the application or will repay the grant to RUS.

## 2. Fully Completed Application

Applicants must submit a complete application and provide all supporting documentation required for the application.

## 3. Timely Buildout Completion

A project is eligible only if the application demonstrates that the project can be completely built out within 5 years from the date funds are first made available.

## 4. Technical Feasibility

Only projects that RUS determines to be technically feasible will be eligible for an award. Applicants will be required to submit a network design, network diagram, project costs and a buildout timeline, all certified by a professional engineer. The certification from the professional engineer must state that the proposed network can deliver broadband service at the required level of service to all premises in the proposed funded service area. If a certification is not submitted, the application may not be considered for funding.

## 5. Service Areas

### a. Eligible Service Areas

(i) Applicants must propose to provide broadband service directly to all premises in the proposed funded service area that do not have sufficient access to broadband.

(ii) If any part of the applicant's proposed funded service area is ineligible, RUS, in its sole discretion, may request that an applicant modify its application, if RUS believes the modification is feasible. Otherwise, RUS will reject the application.

b. Ineligible Service Areas

(i) Overlapping Service Areas.

RUS will not fund more than one project that serves any one given geographic area.

Invariably, however, applicants will propose service areas that overlap, varying from small *de minimus* areas of the territory, but which may be significant with respect to households involved, to larger areas of the service territory, but which may contain few households or businesses, if any. As a result, devising a procedure which will cover every overlap circumstance cannot be done. Nevertheless, it is the agency's intent to make as many eligible applications viable for consideration as possible. That may mean the agency may: (1) determine the overlap to be so insignificant that no agency action is necessary; (2) request one or more applications to be revised to eliminate the overlapping territory; (3) choose one application over another given the amount of assistance requested, the number of awards already chosen in the area or State, or the need for the project in the specific area due to other factors; or (4) simply choose the project that scores higher or in the judgement of the agency is more financially feasible.

ii. Prior Funded Service Areas

(A) RUS Broadband Loans. Service areas of borrowers that have RUS broadband loans, as defined in this FOA, are ineligible for all other applicants, and can be found at <https://reconnect.usda.gov>. However, RUS broadband borrowers that have built out their service areas consistent with their application and loan documents, but were not required to provide, and are currently not providing, sufficient access to broadband pursuant to this FOA are

eligible to apply for funding for these service areas; provided that they have not defaulted on, and have materially complied with, in the sole discretion of RUS, their prior broadband loan requirements. Current RUS broadband borrowers that have received funding to provide sufficient access to broadband, but not yet built out their system are ineligible to apply.

(B) RUS Community Connect Grants. Service areas that received grants under the RUS Community Connect Grant Program are eligible if they do not have sufficient access to broadband, except for those grants still under construction. Service areas still under construction can be found at <https://reconnect.usda.gov>.

(C) RUS BIP Grants. Service areas that received a 100 percent grant under the RUS Broadband Initiatives Program (BIP) are eligible if they do not have sufficient access to broadband. However, if the applicant is the same BIP grantee, then the applicant may only request a 100 percent loan.

(D) State-funded Areas. Applicants are encouraged to work with the Governor's office for the states where they are proposing to provide broadband service and submit information detailing where state funding has been provided.

(E) Connect America Fund Phase II Auction—Auction 903 (CAF II). Funding for service areas of CAF II recipients can only be requested by the entity that is receiving the CAF II support, and such funding is limited to a 100% loan. The CAF II service areas can be found at <https://reconnect.usda.gov> and may also be found on the FCC web page.

(F) ReConnect Program Awards. Service areas of companies that received a ReConnect award in round one are not eligible for funding under this FOA.

## 6. Fully Funded

A project is eligible only if, all project costs can be fully funded or accounted for in the application. To demonstrate this, applications must include evidence of all funding, other than the RUS award, necessary to support the project, such as bank account statements, firm letters of commitment from equity participants, or outside loans, which must evidence the timely availability of funds. If outside loans are used, they may only be secured by assets other than those used for collateral under this FOA. Equity partners that are not specifically identified by name will not be considered in the financial analysis of the application. If the application states that other funds are required for the project in addition to the ReConnect funding requested, evidence must be included in the application identifying the source of funds and when the funds will be available. If the additional funding is not clearly identified, the application may not be considered for an award.

## 7. Financial Feasibility and Sustainability

Only projects that RUS determines to be financially feasible and sustainable will be eligible for an award under this FOA. A project is financially feasible when the applicant demonstrates to the satisfaction of RUS that it will be able to generate sufficient revenues to cover expenses; will have sufficient cash flow to service all debts and obligations as they come due; will have a positive ending cash balance as reflected on the cash flow statement for each year of the forecast period; and, by the end of the forecast period, will meet at least two of the following requirements: A minimum TIER requirement of 1.2, a minimum DSCR requirement of 1.2, and a minimum current ratio of 1.2. In addition, applicants must demonstrate positive cash flow from operations at the end of the forecast period.

If an applicant has no existing debt, is not proposing to borrow funds during the forecast period, and is applying only for grant funds, only the current ratio will be applied and not the TIER or DSCR. For this situation, applicants must meet the minimum current ratio requirement.

#### 8. Service Requirements

Facilities funded with grant funds must provide broadband service proposed in the application for the composite economic life of the facilities, as approved by RUS, or as provided in the Award Documents. This includes the grant assets that are funded with a 50 percent loan and 50 percent combination award. Facilities funded with loan funds must provide broadband service through the amortization period of the loan.

#### 9. Application Transparency

##### a. Pre-award Public Notice.

To ensure transparency for the ReConnect Program, the Agency's mapping tool will include the following information from each application and be displayed for the public:

- (i) The identity of the applicant;
- (ii) the areas to be served;
- (iii) the type of funding requested;
- (iv) the status of the application;
- (v) the number of households without sufficient access to broadband; and (vi) a list of the census blocks to be served.

##### b. Post-award Public Notice.

For all approved applications, the agency will post on its website: The name of the company receiving funding, the type of funding received, the location of the proposed funded service area and the purposes of the funding.

c. Post-award Reporting.

Awardees will be required to submit semi-annual reports for three years after the completion of construction on the following information:

(i) The number and location of residences and businesses that will receive service at or greater than the requirement for the appropriate funding category.

(ii) the types of facilities constructed and installed;

(iii) the speed of the data services being delivered;

(iv) the average price of the data services being delivered in each proposed service area; and

(v) the broadband adoption rate for each proposed service territory, including the number of new subscribers generated from the facilities funded. This information will be used to analyze the effectiveness of the funding provided and will allow the Agency to track adoption rates as new and improved broadband services are being provided.

*D. Eligible Cost Purposes*

1. General

Award and matching funds must be used only to pay for eligible costs incurred post award, except for approved pre-application expenses. Eligible costs must be consistent with the cost principles identified in 2 CFR 200, Subpart E, Cost Principles. In addition, costs must be reasonable, allocable, and necessary to the project. Any application that proposes to use any portion of the award or matching funds for any ineligible costs may be rejected.

2. Eligible and Ineligible Costs

a. Eligible Award Costs

Award funds may be used to pay for the following costs:

(i) To fund the construction or improvement of facilities, including buildings and land, required to provide broadband service, including facilities required for providing other services over the same facilities, such as equipment required to comply with CALEA;

(ii) To fund reasonable preapplication expenses in an amount not to exceed five percent of the award. If an applicant applied for funding in round one, preapplication expenses may be eligible for reimbursement under this round of funding if these expenses support the round two application (*i.e.*, engineering design, market survey, subscriber projections, etc.). RUS reserves the sole right to accept or reject expenses associated with round one. Otherwise, preapplication expenses for round two may be reimbursed only if they are incurred after the publication date of this FOA, and properly documented. Preapplication expenses must be included in the first request for award funds and will be funded with either grant or loan funds. If the funding category applied for has a grant component, then grant funds will be used for this purpose;

(iii) To fund the acquisition of an existing system that does not currently provide sufficient access to broadband for upgrading that system to meet the requirements of this FOA. The cost of the acquisition is limited to 40 percent of the amount requested. Acquisitions can only be considered in the 100 percent loan category; and

(iv) To fund terrestrial-based facilities for satellite broadband service, provided the applicant clearly identifies the PFSA, demonstrates the ability to provide 25Mbps downstream and 3Mbps upstream simultaneously to every premise in the PFSA, and offers subscribers reasonable service plans that do not cap bandwidth usage.

#### b. Ineligible Award Costs

Award funds may not be used for any of the following purposes:

(i) To fund operating expenses of the Awardee;

(ii) To fund costs incurred prior to the date on which the application was submitted, except for eligible pre-application expenses incurred prior to the date of the publication date of this FOA, or as otherwise identified in Section D(2)(a)(ii) above;

(iii) To fund an acquisition of an affiliate, or the purchase or acquisition of any facilities or equipment of an affiliate. Note that if affiliated transactions are contemplated in the application, approval of the application does not constitute approval to enter into affiliated transactions, nor acceptance of the affiliated arrangements that conflict with the obligations under the award documents;

(iv) To fund the acquisition of a system previously funded by RUS;

(v) To fund the purchase or lease of any vehicle other than those used primarily in construction or system improvements;

(vi) To fund broadband facilities leased under the terms of an operating lease or an indefeasible right of use (IRU) agreement;

(vii) To fund the merger or consolidation of entities;

(viii) To fund costs incurred in acquiring spectrum as part of an FCC auction or in a secondary market acquisition. Spectrum that is part of a system acquisition may be considered for loan funding;

(ix) To fund facilities that provide mobile services;

(x) To fund the acquisition of a system that is providing sufficient access to broadband;

(xi) To refinance outstanding debt; nor

(xii) To fund facilities not required to provide broadband service.

## **VII. Application and Submission Information**

### *A. Online Application System*

All applications under this FOA must be submitted through the RUS Online Application System located at <https://reconnect.usda.gov>. Additional information can be found in the Application Guidelines found at the above location. This website will be updated regularly.

### *B. Registration*

#### 1. General

Please note the process for requesting a DUNS Number and a cage code could be lengthy, and applicants should not wait until it is time to submit an application to obtain these. It is recommended applicants immediately start this process for these.

#### 2. Dun and Bradstreet Universal Numbering System (DUNS) Number

All applicants must register for a DUNS number as part of the application. The applicant can obtain the DUNS number free of charge by calling Dun and Bradstreet. Go to <http://fedgov.dnb.com/webform> for more information on assignment of a DUNS number or confirmation. DUNS numbers of parent or affiliated operations cannot be substituted for the applicant. If a DUNS number is not provided, the application cannot be considered for an award.

#### 3. System for Award Management (SAM)

Prior to submitting an application, the applicant must also register in SAM at <https://www.sam.gov/portal/SAM/#1> and supply a Commercial and Government Entity (CAGE) Code number as part of the application. SAM registration must be active with current data at all times, from the application review throughout the active Federal award funding period. To maintain active SAM registration, the applicant must review and update the information in the SAM database annually from the date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete.

If the CAGE Code of the applicant is not included in the application, the application will not be considered for an award.

### *C. Contents of the Application*

Due to the complexities and the many scenarios that must be addressed, if multiple applications are submitted, applicants will be limited to ONE application for this FOA. A complete application will include the following information as requested in the RUS Online Application System:

1. General information on the applicant and the project including:

(a) A description of the project that will be made public consistent with the requirements herein and

(b) The estimated dollar amount of the funding request.

2. An executive summary of the proposed project.

This summary shall include, but not be limited to, a detailed description of existing operations, discussion about key management, description of the workforce, description of interactions between any parent, affiliated or subsidiary operation, a detailed description of the proposed project, and the source of the matching funds.

3. A description of the proposed funded service area including the number of premises passed.

4. Subscriber projections including the number of subscribers for broadband, video and voice services and any other service that may be offered; A description of the proposed service offerings, and the associated pricing plan that the applicant proposes to offer.

5. A map, utilizing the RUS mapping tool located at <https://reconnect.usda.gov> of the proposed funded service areas identifying the areas without sufficient access to broadband and any non-funded service areas of the applicant.

6. A description of the advertised prices of service offerings by competitors in the same area.
7. A network design which includes a description of the proposed technology used to deliver the broadband service demonstrating that all premises in the proposed funded service area can be offered broadband service, a network diagram, a buildout timeline and milestones for implementation of the project, and a capital investment schedule showing that the system can be built within 5 years, all of which must be certified by a professional engineer who is certified in at least one of the states where there is project construction. The certification from the professional engineer must clearly state that the proposed network can deliver the broadband service to all premises in the proposed funded service area at the minimum required service level. In addition, if the applicant is requesting the points for providing a 100 Mbps upstream and 100 Mbps downstream, the certification must also state that the proposed system is capable of delivering this service to all premises; a list of all required licenses and regulatory approvals needed for the proposed project and how much the applicant will rely on contractors or vendors to deploy the network facilities. Note that in preparing budget costs for equipment and materials, RUS' Buy American requirements apply.
8. Resumes of key management personnel, a description of the organization's readiness to manage a broadband services network, and an organizational chart showing all parent organizations and/or holding companies (including parents of parents, etc.), and all subsidiaries and affiliates.
9. A legal opinion that:
  - a. addresses the applicant's ability to enter into the award documents;
  - b. describes all material pending litigation matters;
  - c. addresses the applicant's ability to pledge security as required by the award documents and

- d. addresses the applicant's ability to provide broadband service under state or tribal law.
10. Summary and itemized budgets of the infrastructure costs of the proposed project, including if applicable, the ratio of loans to grants, and any other sources of outside funding. The summary must also detail the amount of matching funds and the source of these funds. If the matching funds are coming from a third party, a commitment letter and support that the funds are available must also be submitted. Matching funds must be deposited into the RUS Construction Fund at the closing of the award.
11. A detailed description of working capital requirements and the source of these funds.
12. Historical financial statements for the last four years consisting of a balance sheet, income statement, and cash flow statement. If an entity has not been operating for four years, historical statements for the period of time the entity has been operating.
13. An unqualified, comparative audited financial statement for the previous calendar year from the date the application is submitted. A subsidiary can use the consolidated financial statements of the parent organization if the parent guarantees the award as outlined in Section VI.C(1) above. For governmental entities financial statements must be accompanied with certifications as to unrestricted cash that may be available on a yearly basis to the applicant.
14. Pro Forma financial analysis, prepared in conformity with U.S. GAAP and the Agency's guidance on grant accounting found at <https://www.rd.usda.gov/files/AccountingGuidance10.pdf>. The Pro Forma should validate the sustainability of the project by including subscriber estimates related to all proposed service offerings; annual financial projections with balance sheets, income statements, and cash flow statements; supporting assumptions for a five-year forecast period and a depreciation schedule for existing facilities, those facilities funded with federal assistance, matching funds, and other funds. This pro forma should indicate the committed sources of capital

funding and include a bridge year prior to the start of the forecast period. This bridge year shall be used as a buffer between the historical financial information and the forecast period and is the year in which the application is submitted.

15. All attachments required in the RUS Online application system;

16. A scoring sheet, analyzing the scoring criteria set forth in this FOA;

17. A list of all the applicant's outstanding and contingent obligations, including copies of existing notes, loan and security agreements, guarantees, any existing management or service agreements, and any other agreements with parents, subsidiaries and affiliates, including but not limited to debt instruments that use the applicant's assets, revenues or stock as collateral;

18. Compliance with the Agencies Environmental Policies and Procedures of 7 CFR Part 1970 is required. To facilitate compliance the applicant must provide completed Environmental Questionnaire(s) as prompted by the application system. The questionnaire consists of project descriptions for environmental review purposes. All project activities, specific project locations, and supporting documentation, must be provided to further the Agencies analysis of potential impacts to the environment. The applicant must supply required environmental authorizations and permits, including those required by the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 *et seq.*) (NEPA), the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470 *et seq.*) (NHPA), and the Endangered Species Act of 1973, as amended (16 U.S.C. § 1534 *et seq.*) (ESA) as applicable. Project maps or site plans are required to identify cable routes, building locations, tower locations, equipment locations and all structures and facilities that are part of the project. The Agency will use data provided in the intake system to complete the environmental review for this project, and may require the

applicant to provide additional information, and studies post-application. This information is needed to assist with an efficient and timely review of the environmental requirements.

19. Certification from the applicant that agreements with, or obligations to, investors do not breach the obligations to the government under the draft Award Documents, especially distribution requirements, and that any such agreements will be amended so that such obligations are made contingent to compliance with the Award Documents. Such certification should also specifically identify which, if any, provisions would need to be amended; and

20. If service is being proposed on tribal land, a certification from the proper tribal official that they are in support of the project and will allow construction to take place on tribal land. The certification must: (1) Include a description of the land proposed for use as part of the proposed project; (2) identify whether the land is owned, held in Trust, land held in fee simple by the Tribe, or land under a long-term lease by the Tribe; (3) if owned, identify the land owner; and (4) provide a commitment in writing from the land owner authorizing the applicant's use of that land for the proposed project. If no certification is provided, then this area may be ineligible for funding.

21. Any other information requested in the online application system.

#### *D. Material Representations*

The application, including certifications, and all forms submitted as part of the application will be treated as material representations upon which RUS will rely in awarding grants and loans.

### **VIII. Application Evaluation Criteria**

#### *A. Evaluation Criteria*

Applications for the 50/50 loan/grant combo and the 100 percent grants will be scored and ranked against the following criteria below. However, applications that cover the same proposed service area will be evaluated as described in Section V(C)(5)(b)(i) above. If eligible applications receive the same score and funding becomes limited, the application that is proposing to serve the highest number of households without sufficient broadband service will be funded first.

#### 1. Rurality of Proposed Funded Service Area (25 Points)

Points will be awarded for serving the least dense rural areas as measured by the population of the proposed funded service area per square mile or if the proposed funded service area is located at least one hundred miles from a city or town that has a population of greater than 50,000 inhabitants. If multiple service areas are proposed, the density calculation will be made on the combined areas as if they were a single area and not the average densities. For the determination of the location of the proposed funded service areas, all proposed funded service areas must be located at least one hundred miles from a city or town that has a population of greater than 50,000. Population densities of 6 or less or if the proposed funded service area is located one hundred miles from a city or town of 50,000, 25 points will be awarded.

#### 2. Farms Served (20 Points)

Applicants will receive 1 point for every 10 farms served up to a maximum of 20 points. Farms will be counted using 2017 Census of Agriculture data. The total area in square miles by county covered by the Proposed Funded Service Area will be treated as its own analysis area. The mapping tool will calculate the analysis area in square miles as a percentage of the total county area in square miles and then multiply this percentage by the total number of farms located in that county. If there is more than one county covered by the PFSA, the sum of all

analysis area(s) will be used to determine the total number of farms for that PFSA. Farms will be counted using the GIS layer located in the RUS mapping tool at: <https://reconnect.usda.gov>.

### 3. Performance of the Offered Service (20 Points)

For projects that are proposing to build a network that is capable of providing at least 100 Mbps symmetrical service to all premises, 20 points will be awarded. The certification from the Professional Engineer must certify that the proposed system can deliver these speeds to every premise in the proposed funded service area.

### 4. Businesses (15 Points)

Applicants will receive 1 point for each business that pre-subscribes for broadband service up to a maximum of 15 points. Applicants must have the owner of the business sign the presubscription form provided in the application system and submit them as part of their application.

### 5. Healthcare Centers (15 Points)

For every healthcare center served 1 point will be awarded up to a maximum of 15 points. Healthcare centers will be counted using the GIS layer located in the RUS mapping tool at <https://reconnect.usda.gov>. For tribal areas not identified in the GIS layer, the tribal leader of the area can submit documentation supporting the number of healthcare facilities and will receive 1 point up to a total of 15 points for every healthcare facility that is identified. A certification that the facilities exist and are being used must be submitted by the tribal leader.

### 6. Educational Facilities (15 Points)

For every school served 1 point will be awarded up to a maximum of 15 points. Schools will be counted using the GIS layer provided in the RUS mapping tool located at <https://reconnect.usda.gov>. For tribal areas not identified in the GIS layer, the tribal leader of the

area can submit documentation supporting the number of educational facilities and will receive 1 point up to a total of 15 points for every educational facility that is identified. A certification that the facilities exist and are being used must be submitted by the tribal leader.

#### 7. Essential Community Facilities (15 Points)

For every essential community facility served 1 point will be awarded up to a maximum of 15 points. Essential community facilities will be counted using the GIS layer located in the RUS mapping tool at <https://reconnect.usda.gov>. For tribal areas not identified in the GIS layer, the tribal leader of the area can submit documentation supporting the number of Essential Community Facilities and will receive 1 point up to a total of 15 points for every Essential Community Facility that is identified. A certification that the facilities exist and are being used must be submitted by the tribal leader.

#### 8. Opportunity Zones (5 Points)

For applications that are proposing to provide service in at least part of an area identified as an Opportunity Zone , 5 points shall be awarded. Opportunity Zones will be analyzed using the GIS layer located at <https://reconnect.usda.gov>.

#### 9. State or Tribal Broadband Activity (20 Points)

For projects that are in a State or tribal area that has a broadband plan that has been updated within five years of the date of publication of this FOA, 10 points will be awarded. An additional 5 points will be awarded for projects located in states that do not restrict utilities from delivering broadband service, and 5 more points for projects located in states that expedite right-of-way and environmental requirements. Applicants will be required to submit evidence from the appropriate State or tribal official that a broadband plan has been implemented and updated, that there are no restrictions on utilities providing broadband service, and that procedures are in place for

expediting right-of-way and environmental requirements. If service is proposed in multiple states tribal areas, then evidence must be submitted from each state or tribal area to get the appropriate points.

## **IX. Notice of Proposed Funded Service Areas**

### *A. The Agency Will Publish a Public Notice of Each Application*

The application must provide a summary of the information required for such public notice including the following:

1. The identity of the applicant;
2. A map of each proposed funded service area showing the rural area boundaries and the areas without sufficient access to broadband using the Agency's Mapping Tool;
3. The amount and type of support requested;
4. The status of the review of the application;
5. The estimated number of households without sufficient access to broadband in each service area exclusive of satellite and mobile broadband service; and
6. A description of all the types of services that the applicant proposes to offer in each service area.

### *B. Notification After the Application Has Been Received*

The Agency will publish the public notice on an Agency web page after the application has been submitted through the online application system and will remain on the web page for a period of 45 calendar days. The notice will ask existing service providers to submit to the Agency, within this notice period, the following information:

1. The number of residential and business customers within the applicant's service area currently purchasing broadband service, defined as at a minimum speed of 10 Mbps downstream and 1 Mbps upstream, the rates of data transmission being offered, and the cost of each level of broadband service charged by the existing service provider;
2. The number of residential and business customers within the applicant's service area receiving voice and video services and the associated rates for these other services; and
3. A map showing where the existing service provider's services coincide with the applicant's service area using the Agency's Mapping Tool.

Please note that the Agency will be contacting any entity that responds to the notice and will be requesting additional information such as test result that demonstrate that the area in question has sufficient access to broadband service.

#### *C. Agency Determination of Sufficient Access to Broadband in Proposed Funded Service Area*

The Agency will use the information submitted to determine if there is sufficient access to broadband in any part of the proposed funded service area. Notwithstanding non-responses by actual and potential providers, the Agency will use all information available in evaluating the feasibility of the project.

#### *D. Treatment of Submitted Information*

The information submitted by an existing service provider will be treated as proprietary and confidential to the extent permitted under applicable law.

#### *E. Notice of Application Is Approved*

If an application is approved, an additional notice will be published on the agency's website that will include the following information:

1. The name of the entity receiving the financial assistance;
2. The type of assistance being received;
3. The purpose of the assistance and the location of the proposed funded service area; and
4. The semiannual reports submitted under Section X(B)(6)e of this FOA.

## **X. Evaluation and Processing Procedures**

### *A. Review of Application*

Applications will be evaluated using the criteria stated in Section VII.C of this FOA. Public comments received with respect to an application's proposed funded service area will be reviewed and evaluated. Eligibility of proposed funded service areas will be verified by the Agency.

RUS also reserves the right to ask applicants for clarifying information and additional verification of assertions in the application. For those applications that RUS has selected for funding, RUS will send award documents.

### *B. Review of Awardee Operations*

#### **1. Entities That Receive Funding Under This FOA**

For all entities that receive funding under this FOA, RUS may send a team to the awardee's facilities to complete a Management Analysis Profile (MAP) of the entire operation. MAPs are used by RUS as a means of evaluating an Awardee's strengths and weaknesses and ensuring that awardees are prepared to fulfil the terms of the award. Once an applicant accepts an award offer, RUS may schedule a site visit as soon as possible.

## 2. Agency Right Not to Advance Funds

RUS reserves the right not to advance funds until the MAP has been completed. If the MAP identifies issues that can affect the operation and completion of the project, those issues must be addressed to the satisfaction of RUS before funds can be advanced. Funding may be rescinded if following a MAP, the agency determines that the awardee will be unable to meet the requirements of the award.

## **XI. Award Administration Information**

### *A. Award Notices*

Successful applicants will receive an offer letter and award documents from RUS following award notification. Applicants may view sample award documents at <https://reconnect.usda.gov>.

### *B. Administrative Requirements*

#### 1. Pre-Award Conditions

No funds will be disbursed under this program until all other sources of funding have been obtained and any other pre-award conditions have been met. Failure to obtain one or more sources of funding committed to in the Application or to fulfill any other pre-award condition within 90 days of award announcement may result in withdrawal of the award.

#### 2. Advance Procedures

RUS loan and grant advances are made at the request of the Awardee according to the procedures stipulated in the Award Documents. ALL MATCHING FUNDS OR CASH PROVIDED IN LIEU OF LOAN FUNDS MUST BE EXPENDED FIRST, FOLLOWED BY LOAN FUNDS, AND THEN BY GRANT FUNDS, EXCEPT FOR RUS APPROVED PRE-APPLICATION EXPENSES. Grant funds, if any, will be used for eligible preapplication

expenses only on the first advance request. Accordingly, applications that do not account for such advance procedures in the pro forma five-year forecast may be rejected.

### 3. Construction

a. All project assets must comply with 7 CFR part 1788, and 7 CFR part 1970 located at <https://www.rd.usda.gov/publications/regulations-guidelines/regulations>, the ReConnect Program Construction Procedures located at <https://reconnect.usda.gov>, any successor regulations found on the agency's website, and any other guidance from the Agency.

b. The build-out of the project must be completed within five years from the date funds are made available. Build-out is considered complete when the network design has been fully implemented, the service operations and management systems infrastructure is operational, and the awardee is ready to support the activation and commissioning of individual customers to the new system.

### 5. Servicing

a. Awardees must make payments on the loan as required in the note and Award Documents.

b. Awardees must comply with all terms, conditions, affirmative covenants, and negative covenants contained in the Award Documents.

### 6. Accounting, Monitoring, and Reporting Requirements

a. Awardees must adopt a system of accounts for maintaining financial records acceptable to the Agency, as described in 7 CFR part 1770, subpart B.

b. Awardees must submit annual comparable audited financial statements along with a report on compliance and on internal control over financial reporting, and management letter in accordance with the requirements of 7 CFR part 1773. The Certified Public Accountant (CPA)

conducting the annual audit is selected by the borrower and must be satisfactory to RUS as set forth in 7 CFR 1773 Subpart B—RUS Audit Requirements.

c. Awardees must comply with all reasonable Agency requests to support ongoing monitoring efforts. The Awardee shall afford RUS, through its representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect: The Broadband System, any other property encumbered by the Award Documents, any and all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents, electronic or paper of every kind belonging to or in the possession of the Awardee or in any way pertaining to its property or business, including its subsidiaries, if any, and to make copies or extracts therefore.

d. Awardee records shall be retained and preserved in accordance with the provisions of 7 CFR part 1770, subpart A.

e. Awardees must submit semiannual reports for 3 years after completion of the project, which must include the following:

(1) The purpose of the financing, including new equipment and capacity enhancements that support high-speed broadband access for educational institutions, health care providers, and public safety service providers (including the estimated number of end users who are currently using or forecasted to use the new or upgraded infrastructure);

(2) The progress towards fulfilling the objectives for which the assistance was granted, including:

(i) The number of residences and businesses that will receive service equal to or greater than the speed required for the appropriate funding category;

(ii) The types of facilities constructed and installed;

- (iii) The speed of the broadband services being delivered;
- (iv) The average price of the broadband services being delivered in each proposed service area;
- (v) The broadband adoption rate for each proposed service territory, including the number of new subscribers generated from the facilities funded; and

## 7. Assistance Instruments

- a. Terms and conditions of loans, grants, or loan/grant combinations are set forth in the non-negotiable standard loan, grant, or loan/grant agreements and the corresponding note, and/or mortgage, if applicable, which may be found at <https://reconnect.usda.gov>.
- b. Award Documents must be executed prior to any advance of funds.
- c. Sample Award Documents can be found at <https://reconnect.usda.gov>.

## 8. Loan and Loan/Grant Terms and Conditions

Among others, the following terms shall apply to the loans:

### a. Interest Rate

If an applicant is applying for a 100% loan, the interest rate shall be fixed at 2%. If an applicant is applying for a 50/50 loan/grant combination, the loan shall bear interest at a rate equal to the cost of borrowing to the Department of Treasury for obligations, as determined by the government, of comparable maturity. The applicable interest rate will be set at the time of each advance.

### b. Repayment Period

Unless the Applicant requests a shorter repayment period, loans must be repaid with interest within a period that, rounded to the nearest whole year, is equal to the expected Composite Economic Life of the project assets, as determined by RUS based upon acceptable depreciation

rates, plus three years. Acceptable depreciation rates can be found in the ReConnect Program Constructions Procedures found at <https://reconnect.usda.gov>.

c. Amortization Period

Interest begins accruing on the date of each loan advance. All interest and principle payments will be deferred for a three-year period starting when funds are made available to be drawn by the Awardee. At the end of the three-year deferral period, accrued interest will be capitalized and added to the outstanding principal, and monthly payments will be established in an amount that amortizes the outstanding balance in equal payments over the remaining term of the loan.

d. Build-out Period

All proposed construction (including construction with matching and other funds) and all advance of funds must be completed no later than five years from the time funds are made available.

e. Loan Security.

The loan portion of the award must be adequately secured, as determined by RUS.

(i) For Corporations and LLC's, the loan and loan/grant combinations must be secured by all assets of the Awardee. RUS must be given an exclusive first lien, in form and substance satisfactory to RUS, on all assets of the Awardee, including all revenues. RUS may share its first lien position with one or more lenders on a *pari passu* basis, except with respect to grant funds, if security arrangements are acceptable to RUS. Applicants must submit a certification that their prior lender or lienholder on any Awardee assets has already agreed to sign the RUS' standard intercreditor agreement or co-mortgage found at <https://reconnect.usda.gov>. Note that RUS will not consider sharing assets with any related party or affiliate of the Awardee. Moreover, given that RUS cannot renegotiate these standard agreements, Awardees that are unable to obtain sign-

off on the security arrangements may have their awards rescinded within 60 days of the date the Awardee is made aware of the approval of its application.

(ii) For Tribal entities and municipalities, RUS will develop appropriate security arrangements.

(iii) Unless otherwise approved by RUS in writing, all property and facilities purchased with award funds must be owned by the Awardee.

f. Grant Security.

The grant portion of the award must also be adequately secured, as determined by RUS.

(i) The government must be provided an exclusive first lien on all grant assets during the service obligation of the grant, and thereafter any sale or disposition of grant assets must comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in 2 CFR part 200. Note that this part will apply to ALL grant funds of an Awardee, regardless of the entity status or type of organization.

(ii) All Awardees must repay the grant if the project is sold or transferred without receiving written approval from RUS during the service obligation of the grant.

## 9. Award Terms and Conditions

a. Scope

Awardees are required to comply with the requirements established herein. Any obligation that applies to the Awardee shall extend for the life of the award-funded facilities.

b. Sale or Lease of Project Assets

The sale or lease of any portion of the Awardee's facilities must be approved in writing by RUS.

c. Certifications

(i) The Applicant must certify that it is authorized to submit the application on behalf of the eligible entity(ies) listed in the Application; that the Applicant has examined the Application; that all information in the Application, including certifications and forms submitted, are, at the time furnished, true and correct in all material respects; that the entity requesting funding will comply with the terms, conditions, purposes, and federal requirements of the program; that no kickbacks were paid; and that a false, fictitious, or fraudulent statement or claim on the Application is grounds for denial or termination of an award, and/or possible punishment by a fine or imprisonment as provided in 18 U.S.C. § 1001 and civil violations of the False Claims Act (31 U.S.C. 3729 *et seq.*);

(ii) The Applicant must certify that it will comply with all applicable federal, tribal, state, and local laws, rules, regulations, ordinances, codes, orders, and programmatic rules and requirements relating to the project, and acknowledges that failure to do so may result in rejection or de-obligation of the award, as well as civil or criminal prosecution, if applicable, by the appropriate law enforcement authorities.

#### 10. Financial and Compliance Reporting Requirements

Awardees must submit to RUS 30 calendar days after the end of each calendar year quarter, balance sheets, income statements, statements of cash flow, rate package summaries, and the number of customers taking broadband service on a per community basis utilizing RUS' on-line reporting system. These reports must be submitted throughout the loan amortization period or for the economic life of the facilities funded with a 100 percent grant. In addition, Awardees will be required to submit annually updated service area maps through the RUS mapping tool showing the areas where construction has been completed and premises are receiving service until the entire proposed funded service area can receive the broadband service. At the end of the project,

Awardees must submit a service area map indicating that all construction has been completed as proposed in the application. If parts of the proposed funded service area have not been constructed, RUS may require a portion of the award to be rescinded or paid back.

## **XII. Other Information**

### *A. Discretionary Awards*

The government is not obligated to make any award as a result of this announcement and will fund only projects that are deemed likely to achieve the program's goals and for which funds are available.

### *B. Environmental and National Historic Preservation Requirements*

Federal Agencies are required to analyze the potential environmental impacts, as required by the NEPA and the NHPA for Applicant projects or proposals seeking funding. All Applicants are required to complete an Environmental Questionnaire, provide a description of program activities and to submit all other required environmental documentation as requested in the application system or by the Agency after the application is submitted. It is the Applicant's responsibility to obtain all necessary federal, tribal, state, and local governmental permits and approvals necessary for the proposed work to be conducted. Applicants are expected to design their projects so that they minimize the potential for adverse impacts to the environment.

Applicants also will be required to cooperate with the granting agencies in identifying feasible measures to reduce or avoid any identified adverse environmental impacts of their proposed projects. The failure to do so may be grounds for not making an award. Applications will be reviewed to ensure that they contain sufficient information to allow Agency staff to conduct a NEPA analysis so that appropriate NEPA documentation can be submitted to the appropriate

federal and state agencies, along with the recommendation that the proposal is in compliance with applicable environmental and historic preservations laws. Applicants proposing activities that cannot be covered by existing environmental compliance procedures will be informed after the technical review stage whether NEPA compliance and other environmental requirements can otherwise be expeditiously met so that a project can proceed within the timeframes anticipated under the ReConnect Program. If additional information is required after an application is accepted for funding, funds can be withheld by the agency under a special award condition requiring the Awardee to submit additional environmental compliance information sufficient for the Agency to assess any impacts that a project may have on the environment.

#### *C. De-Obligation*

The RUS reserves the right to deobligate awards to Awardees under this FOA that demonstrate an insufficient level of performance, wasteful or fraudulent spending, or noncompliance with environmental and historic preservation requirements.

#### *D. Confidentiality of Applicant Information*

Applicants are encouraged to identify and label any confidential and proprietary information contained in their applications. The Agency will protect confidential and proprietary information from public disclosure to the fullest extent authorized by applicable law, including the Freedom of Information Act, as amended (5 U.S.C. 552), the Trade Secrets Act, as amended (18 U.S.C. 1905), the Economic Espionage Act of 1996 (18 U.S.C. 1831 *et seq.*), and CALEA (47 U.S.C. 1001 *et seq.*). Applicants should be aware, however, that the Consolidated Appropriations Act requires substantial transparency. For example, RUS is required to make publicly available on the internet a list of each entity that has applied for a loan or grant, a description of each

application, the status of each application, the name of each entity receiving funds, and the purpose for which the entity is receiving the funds.

#### *E. Compliance With Applicable Laws*

Any recipient of funds under this FOA shall be required to comply with all applicable federal, tribal and state laws, including but not limited to:

1. The nondiscrimination and equal employment opportunity requirements of Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e *et seq.*, 7 CFR pt. 15);
2. Section 504 of the Rehabilitation Act (29 U.S.C. 794 *et seq.*; 7 CFR pt. 15b);
3. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*; 45 CFR pt. 90);
4. Executive Order 11375, amending Executive Order 11246, Relating to Equal Employment Opportunity (3 CFR pt. 102). *See* 7 CFR pts. 15 and 15b and 45 CFR pt. 90, RUS Bulletin 1790–1 (“Nondiscrimination among Beneficiaries of RUS Programs”), and RUS Bulletin 20–15:320–15 (“Equal Employment Opportunity in Construction Financed with RUS Loans”);
5. The Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151 *et seq.*);
6. The Uniform Federal Accessibility Standards (UFAS) (Appendix A to 41 CFR subpart 101–19.6); and
7. The Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA and certain related federal environmental laws, statutes, regulations, and Executive Orders found in 7 CFR 1970.

A more complete list of such requirements can be found in the applicable Award Documents.

#### *F. Communications Laws*

Awardees will be required to comply with all applicable federal, tribal and state communications laws and regulations, including, for example, the Communications Act of 1934,

as amended, (47 U.S.C. 151 *et seq.*) the Telecommunications Act of 1996, as amended (Pub. L. 104–104, 110 Stat. 56 (1996), and CALEA. For further information, *see* <http://www.fcc.gov>.

#### *G. Executive Order 13132*

It has been determined that this notice does not contain policies with federalism implications as that term is defined in Executive Order 13132.

#### *H. Authorized Signatories*

Only authorized grant and loan officers can bind the Government to the expenditure of funds.

#### *I. Paperwork Reduction Act and Recordkeeping Requirements*

The Information Collection and Recordkeeping requirements contained in this FOA have been approved by OMB Control Number 0572–0152. Copies of all forms, regulations, and instructions referenced in this FOA may be obtained from RUS. Data furnished by the Applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, the failure to provide data could result in program benefits being withheld or denied.

**Chad Rupe,**

*Administrator, Rural Utilities Service.*

<FRDOC> [FR Doc. 2019–26522 Filed 12–9–19; 8:45 am]

<BILCOD> BILLING CODE 3410–15–P

[FR Doc. 2019-26522 Filed: 12/11/2019 8:45 am; Publication Date: 12/12/2019]